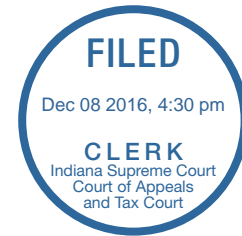


# In the Indiana Supreme Court

Cause No. 94S00-1602-MS-86



## Order

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, the Indiana Rules of Appellate Procedure are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

### Rule 12. Transmittal Of The Record

...

**B. Transcript.** ~~Within five (5) days of the Court Reporter filing the Transcript, the trial court clerk shall transmit the Transcript to the Clerk in accordance with Rules 28 and 29. Any party may move the Court on Appeal to order the trial court clerk to transmit the Transcript at a different time than provided for in this Rule.~~

(1) Except as otherwise provided below, the trial court clerk shall retain the Transcript until the Clerk notifies the trial court clerk that all briefing is completed, and the trial court clerk shall then transmit one (1) copy of the Transcript to the Clerk in accordance with Rules 28 and 29.

(a) In Criminal Appeals in which the appellant is not represented by the State Public Defender, the Clerk shall notify the trial court clerk when the Appellant's Brief has been filed, and the trial court clerk will then transmit one (1) copy of the Transcript to the Clerk in accordance with Rules 28 and 29.

(b) In Criminal Appeals in which the appellant is represented by the State Public Defender, the trial court clerk shall transmit one (1) copy of the Transcript to the Clerk in accordance with Rules 28 and 29 when the Court Reporter has completed the preparation, certification and filing in accordance with Rule 11(A).

(c) In juvenile termination of parental rights and juvenile child in need of services appeals, the Clerk shall notify the trial court clerk when the Appellant's Brief has been filed, and the trial court clerk will then transmit one (1) copy of the Transcript to the Clerk in accordance with Rules 28 and 29.

(d) Any party may move the Court on Appeal to order the trial court clerk to transmit the Transcript at a different time than provided for in this Rule.

(2) Any party may withdraw the Transcript, or, at the trial court clerk's option, a copy, at no extra cost, from the trial court clerk for a period not to exceed the period in which the party's brief is to be filed.

...

## **Rule 28. Preparation Of Transcript By Court Reporter**

...

### **C. Submission of Electronic Transcript.**

(1) Following certification of the Transcript, the Court Reporter shall submit the electronic Transcript using one of the following methods:

(a) *Submission by E-Filing.* If e-filing is required in the trial court by Trial Rule 86(D)(1) and the documentary exhibits are in electronic form~~clerk is listed, individually or by organization, on the Public Service List~~, then the Court Reporter shall transmit the electronic Transcript to the trial court clerk through the IEFS ~~using a "Serve" filing type under the Court on Appeal case number.~~

(b) *Submission on Physical Media.* If the ~~trial court clerk is not listed, individually or by organization, on the Public Service List~~ Transcript is not submitted by e-filing, then the Court Reporter shall seal two (2) copies of the Transcript~~the official record and official working copy~~ in an envelope or package bearing the trial court case number and marked "Transcript." The envelope or package containing the electronic Transcript copies shall be filed with the trial court clerk in accordance with Rule 11. The Court Reporter shall also retain ~~the Court Reporter's~~ a copy of the electronic Transcript. ~~The sealed electronic Transcript copies shall be filed with the trial court clerk in accordance with Rule 11.~~

...

### **E. Processing and Transmission of Electronic Transcript by Clerk.**

(1) If the electronic Transcript is submitted by E-Filing, the trial court clerk shall enter the date of submission on the Chronological Case Summary and shall transmit the electronic Transcript to the Clerk through the IEFS.

(2) If the electronic Transcript is submitted on Physical Media, Upon receipt of the electronic Transcript, the trial court clerk shall file stamp the envelope that will be used to store the electronic data storage device; the original envelope submitted by the Court Reporter may be used for this purpose, if appropriate. The trial court clerk shall then transmit one (1) copy of the electronic Transcript to the Clerk either through the IEFS or by personal delivery, U.S. mail, or third-party commercial carrier.

(3) The trial court clerk shall retain the second copy of the electronic Transcript and store the electronic records in conformity with Administrative Rule 6.

**F. Court Records Excluded by Administrative Rule 9(G).**

(1) In cases where all of the Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1), the Transcript shall be excluded from Public Access.

(2) If, during the hearing or trial a party or person identified any exhibit or oral statement(s) to be excluded from Public Access, the Court Reporter must comply with the requirements of Appellate Rule 23(F) with regard to the exhibit or statement(s) and must note in the Transcript the specific Administrative 9(G)(2) or 9(G)(3) ground(s) identified by the party or person.

(3) Additionally, until the time the Transcript is transmitted to the Court on Appeal, any party or person may file written notice with the Trial Court identifying:

(a) the exhibit or Transcript page and line number(s) containing any Court Record to be excluded from Public Access; and

(b) the specific Administrative Rule 9(G)(2) or 9(G)(3) grounds upon which that exclusion is based. (See Form #App.R. 11-3).

This written notice must be served on the Court Reporter and, upon receipt of the written notice, the Court Reporter must refile the Transcript in compliance with the requirements of Appellate Rule 23(F) and must note in the Transcript the specific Administrative Rule 9(G)(2) or 9(G)(3) grounds(s) identified by a party or person.

(4) After the Transcript has been transmitted to the Court on Appeal, any request by a party or person to exclude a Court Record in the Transcript from Public Access must be made to the Court on Appeal and must contain the specific Administrative Rule 9(G)(2) or 9(G)(3) ground(s) upon which that exclusion is based. Upon receipt of an order from the Court on Appeal, the Court Reporter must re-file the Transcript in compliance with the requirements of Appellate Rule 23(F).

...

**Appendix A. Standards for Preparation of Electronic Transcripts**

...

(14) ~~[Deleted, eff. January 1, 2017] Court Records Excluded by Administrative Rule 9(G).~~

~~(a) In cases where all of the Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1), the Transcript shall be excluded from Public Access.~~

~~(b) If, during the hearing or trial a party or person identified any oral statement(s) to be excluded from Public Access, the Court Reporter must comply with the requirements of Appellate Rule 23(F) with regard to the statement(s) and must note in the Transcript the specific Administrative 9(G)(2) or 9(G)(3) ground(s) identified by the party or person.~~

~~(c) Additionally, until the time the Transcript is transmitted to the Court on Appeal, any party or person may file written notice with the Trial Court identifying:~~

~~(i) the Transcript page and line number(s) containing any Court Record to be excluded from Public Access; and~~

~~(ii) the specific Administrative Rule 9(G)(2) or 9(G)(3) grounds upon which that exclusion is based. (See Form #App.R. 11-3).~~

~~This written notice must be served on the Court Reporter and, upon receipt of the written notice, the Court Reporter must refile the Transcript in compliance with the requirements of Appellate Rule 23(F) and must note in the Transcript the specific Administrative Rule 9(G)(2) or 9(G)(3) grounds(s) identified by a party or person.~~

~~(d) After the Transcript has been transmitted to the Court on Appeal, any request by a party or person to exclude a Court Record in the Transcript from Public Access must be made to the Court on Appeal and must contain the specific Administrative Rule 9(G)(2) or 9(G)(3) ground(s) upon which that exclusion is based. Upon receipt of an order from the Court on Appeal, the Court Reporter must re-file the Transcript in compliance with the requirements of Administrative Rule 9(G)(5)(b).~~

...

(16) *Electronic Storage Devices.* The Court Reporter shall transcribe the evidence on one or more sequentially numbered electronic data storage devices for each complete transcription. Approved media for electronic storage include USB flash memory drives, compact discs (CDs), and digital versatile discs (DVDs) specifically formatted to store electronic data in a File Allocation Table (FAT) or File Allocation Table 32 (FAT-32) file system. CDs and DVDs should be prepared for distribution (e.g., finalized, closed session) to ensure that the files can be opened by the Clerk. Each electronic data storage device shall be labeled or tagged to identify the names of the parties and case number in the proceedings in the trial court; the Court on Appeal case number, if known; the device sequence number, if more than one (1) device is required for a complete Transcript; the signature of the Court Reporter; ~~and whether the device is the official record, official working copy, Court Reporter's copy, or party copy.~~

...

These amendments shall take effect on January 1, 2017.

Done at Indianapolis, Indiana, on 12/08/2016 .



Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.